

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
DOCKET NO. 3:13-cr-00204-MOC

**UNITED STATES OF AMERICA,**

Vs.

**BOGGS PAVING, INC.**  
**CARL ANDREW BOGGS III**  
**KEVIN HICKS**  
**GREG MILLER**  
**GREG TUCKER**  
**STYX CUTHBERTSON TRUCKING**  
**COMPANY, INC.**  
**JOHN CUTHBERTSON**  
**ARNOLD MANN,**

Defendants.

ORDER

**THIS MATTER** is before the court on defendants' Motion for Coordinated Sentencing Date (#222) and the government's Response. For cause, defendants cite the need to determine the amount of loss in order to determine the appropriate advisory sentencing guidelines.

As to Defendant Mann, who has secured a Rule 11(c)(1)(C) plea, his sentencing is set for November 10, 2015, and a loss amount is not necessary for entry of a sentence. As to the remaining defendants, the court agrees that a loss amount needs to be determined – those defendants, however, have all been calendared for sentencing on the same day, November 23, 2015, which will facilitate determining a loss amount in advance of all such sentencings, as follows:

(1) Each defendant and the government shall file a brief not longer than 5 pages on the issue of loss amount not later than November 13, 2015. The court will consider those briefs in advance of sentencing. At 9 a.m. on November 23, 2015, a loss amount hearing will be conducted

and concluded not later than 9:30 a.m. Since the issue of loss amount is a common concern as to all defendants, defendants will have 10 minutes to make any additional arguments as to loss amount and the government will then have 10 minutes, with the final 10 minutes reserved for questioning by the court.

(2) The court has scheduled 30 minutes for each sentencing. The court understands that there are numerous unresolved objections to the presentence reports and that the government suggests in its Response spreading out these proceedings over multiple days. While this case is perhaps the best lawyered criminal case, it is not the most complex. The court believes that setting aside a full day of court to sentence six defendants is an appropriate allocation of resources. To streamline matters further, counsel shall file in each case a joint pleading summarizing each objection in the following manner:

1. A one sentence statement of the Objection, citing page and paragraph of the PSR.
  - A. a one sentence reason for such objection.
  - B. a one sentence response to such objection
  - C. space left for pretrial services to provide a brief response.

Such filing shall be made not later than November 13, 2015, and a courtesy copy of such filing shall be delivered that day to the pretrial services officer who completed the presentence report. The court suggests providing such officer with a Word document. Pretrial services shall review each objection and provide the court with an equally brief confidential recommendation as to each objection in advance of sentencing.

(3) All letters in support and sentencing memoranda shall be filed not later than November 13, 2015. Counsel are reminded that the provision of the Local Criminal Rules which allows sentencing memoranda to be filed under seal does not extend to exhibits, including letters of support, which are public record. If there is a letter that contains information of a personal nature, such as sensitive medical information, counsel may apply for sealing.

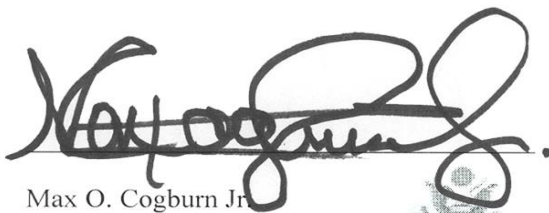
(4) As there is a great deal of time between this Order and the November 23, 2015, sentencings, counsel are encouraged to use that time to resolve as many – if not all – objections in advance of the sentencing hearings. Indeed, as this court has repeatedly stated during other sentencing proceedings, it court gives great weight to proposed resolutions where the representative of the people joins in and endorses such resolution.

### **ORDER**

**IT IS, THEREFORE, ORDERED** that defendants' Motion for Coordinated Sentencing Date (#223) is **DENIED AS MOOT** inasmuch as a coordinated sentencing schedule is already in place.

For defendants 1, 2, 3, 4, 5, and 7, the Clerk of Court is instructed to: (1) docket a deadline of November 13, 2015, for the filing of briefs on (a) loss amount, (b) a joint schedule of objections, and (c) for sentencing memoranda/letters; (2) notice Oral Arguments for November 23, 2015, at 9:00 a.m. on the issue of Loss Amount; and (3) send a copy of this Order to USPO Baker.

Signed: November 3, 2015

A handwritten signature in black ink, appearing to read "Max O. Cogburn Jr.", written over a horizontal line.

Max O. Cogburn Jr.  
United States District Judge